

United States Bankruptcy Court

For the NORTHERN District of IOWA

IN RE:

PAUL ROBINSON
LAURA ROBINSONCase No. L88-01321C**FILED**
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

JAN 6 1989

JUDGMENT

BARBARA A. EVERLY, CLERK

- ☒ This proceeding having come on for trial or hearing before the court, the Honorable Michael J. Melloy, United States Bankruptcy Judge, presiding, and the issues having been duly tried or heard and a decision having been rendered,

[OR]

- ☐ The issues of this proceeding having been duly considered by the Honorable Michael J. Melloy, United States Bankruptcy Judge, and a decision having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED: that Judgment shall enter against United Telephone Company for violation of 11 U.S.C. §§ 362(a)(1) and 362(a)(6). Judgment shall enter in favor of the Debtors, Paul and Laura Robinson, as against United Telephone Company in the sum of \$1,157.83

Copy to:
Attorney for Debtors;
Trustee; U.S. Trustee;
United Telephone Company

JAN 6 1989

ge

VOL. II
Page 108

BARBARA A. EVERLY

Clerk of Bankruptcy Court

[Seal of the U.S. Bankruptcy Court]

Date of issuance January 6, 1989

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

DEC 21 1988

IN RE:
PAUL ROBINSON
LAURA ROBINSON

CHAPTER 13 BARBARA A. EVERLY, CLERK
BANKRUPTCY NO.
L88-01321C

Debtors.

ORDER Granting Amended
Application for Citation
of Contempt and Sanctions

The Amended Application for Citation of Contempt and Sanctions filed by the Debtors, Paul and Laura Robinson, came on for hearing on December 16, 1988. Appearing for the applicant was Attorney Kenneth Dolezal. No appearance was entered for the respondent, United Telephone Company.

Proceedings in this matter show that on October 18, 1988, the Debtors filed an application for citation for contempt and sanctions in which the Debtors allege the respondent, United Telephone Company violated the automatic stay. The certificate of service shows that a copy of that application was served upon United Telephone Company at P.O. Box 300, Newton, Iowa 50208, and United Telephone Company, P.O. Box 2962, Shawnee Mission, Kansas, 66262. That application was set for hearing by the Clerk of the Bankruptcy Court. Notice of the hearing was sent to United Telephone Company by the Clerk of the Bankruptcy Court at both the Newton, Iowa and Shawnee Mission, Kansas' addresses. At the hearing held on November 15, 1988, the respondent, United Telephone Company did not appear nor did they file any responsive pleading.

This Court then entered an Order directing that the application for citation for contempt and sanctions be amended and that further notice be given to the respondent, United Telephone Company. Specifically, the Court ordered that the Clerk of the Bankruptcy Court send to United Telephone Company a copy of the Order resetting the hearing by certified mail, return receipt requested. The Court also directed that the amended application be sent to the respondent by certified mail, return receipt requested by Debtors' attorney.

The court file shows that the Clerk of the Bankruptcy Court did send the November 18, 1988 Order, by certified mail and that United Telephone Company of Iowa acknowledged receipt of the Order. At the December 16, 1988 hearing, Debtors' counsel presented evidence to the Court verifying that the Amended Application for Citation for Contempt and Sanctions was sent to United Telephone Company at P.O. Box 300, Newton, Iowa 50208 and that the post card had been returned from the post office department showing that receipt had been acknowledged by United Telephone Company.

As indicated, the respondent, United Telephone Company, did not appear at the December 16, 1988 hearing, nor did it file any responsive pleading to the citation for contempt and sanctions.

The file also shows that the application for citation for contempt and citations has been verified by the Debtors and sets forth the specific amount of sanctions requested. The application requests that punitive damages be awarded and requests that the

actual damages be tripled in order to assess appropriate punitive damages.


Based upon the verified application filed by the Debtors as well as the failure by the respondent to file a responsive pleading or appear at the hearing, this Court finds that the application for citation of contempt and imposition of sanctions for violation of §§ 362(a)(1) and 362(a)(6) be granted. The Court finds that the request for actual expenses set forth in the application are fair and reasonable and that the Debtors and Debtors' counsel should be awarded those expenses. The Court also determined that the expenses should be increased by \$75.00 to allow for one additional hour of attorney time for appearance at the hearing at the attorney's hourly rate of \$75.00 per hour. However, the Court determined that the application did not state sufficient grounds for awarding of punitive damages.

The total amount of actual expenses incurred by Debtors and Debtors' counsel pursuant to the verified application is \$1,082.83. The total damages to be awarded are \$1,157.83, which includes the additional \$75.00 for one hour of attorney time.

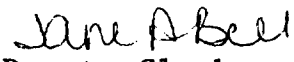
IT IS THEREFORE ORDERED that judgment shall enter against United Telephone Company for violation of 11 U.S.C. §§ 362(a)(1) and 362(a)(6). Judgment shall enter in favor of the Debtors, Paul and Laura Robinson, as against United Telephone Company in the sum of \$1,157.83.

IT IS FURTHER ORDERED that pursuant to Rule 9020 of the Bankruptcy Code, the Clerk of the Bankruptcy Court shall serve a copy of this Order on the respondent, United Telephone Company of Iowa. The Order shall become effective ten days after service of the Order unless within the ten day period United Telephone Company of Iowa serves and files with the Clerk of the Bankruptcy Court objections prepared pursuant to Rule 9033(b) of the Bankruptcy Code.

ORDERED December 21, 1988


MICHAEL J. MELLOY
Chief Bankruptcy Judge

copies mailed to:
Kenneth F. Dolezal,
Atty for Debtors;
Carol F. Dunbar,
Trustee;
United Telephone Company;
U.S. Trustee;
this December 21, 1988


Deputy Clerk
P.O. Box 74890
Cedar Rapids, IA 52407